

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CONAGRA FOODS, INC.,	§	
	§	No. 58, 2010
Plaintiff Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware in and
v.	§	for New Castle County
	§	
LEXINGTON INSURANCE CO.,	§	
	§	
Defendant Below,	§	C.A. No. 09C-02-170
Appellee.	§	

Submitted: February 8, 2010
Decided: February 22, 2010

Before **HOLLAND, JACOBS** and **RIDGELY**, Justices.

ORDER

This 22nd day of February 2010, it appears to the Court that:

(1) The plaintiff/appellant, ConAgra Foods, Inc., has petitioned this Court, pursuant to Supreme Court Rule 42 (“Rule 42”), to appeal from the Superior Court’s orders of January 21, 2010 and memorandum opinion of October 30, 2009 (collectively “the interlocutory orders”) that denied the parties’ cross-motions for summary judgment. By order dated February 4, 2010, the Superior Court denied ConAgra’s application for certification of an interlocutory appeal on the basis that the criteria of Rule 42 had not been met.

(2) Applications for interlocutory review are addressed to the sound discretion of this Court and are granted only in exceptional circumstances. We have examined the interlocutory orders according to the criteria set forth in Rule 42 and have concluded that exceptional circumstances as would merit review of the interlocutory orders do not exist in this case.

NOW, THEREFORE, IT IS HEREBY ORDERED that the interlocutory appeal is REFUSED.

BY THE COURT:

/s/ Jack B. Jacobs
Justice